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SUBJECT: EU COUNTER-TERRORISM POLICY AFTER MADRID

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Summary: Europe Wakes Up  
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1. (SBU) The EU is re-examining its role in the war against terrorism following the March 11 attack in Madrid. Many EU efforts to improve its counter-terrorism (CT) effectiveness -- for instance by revising the EU CT Action Plan and creating and streamlining the Clearinghouse -- were in the works before Madrid but are now being pushed along with greater urgency. Others, such as establishing a CT Coordinator, were not yet considered ripe for adoption just a week ago. European Council President Bertie Ahern announced on March 12 that he would seek a raft of agreements on counter-terrorism at the March 25-26 European Council (Summit).

2. (C) A Council press release later detailed Ahern's proposals, saying he would seek agreement by EU Heads of State and Government to: adopt an EU solidarity clause; adopt a revised CT Action Plan; appoint an EU CT coordinator; enhance security and intelligence cooperation among member states; adopt a long-dormant "guidelines" document to provide strategic guidance to EU CT activities; endorse the draft UN Comprehensive Convention on Terrorism; enhance the "efficiency and effectiveness" of EU efforts to combat terrorist finance; reinforce cooperation with Europol, Eurojust and the Police Chief's Task Force; speed up implementation of existing agreements on border and document security; and adopt a program for enhancing EU-third country CT cooperation. EU staffers are working round the clock to elaborate these proposals for policymakers, who will begin debating them in marathon sessions between March 18 and March

26. While many of the proposals put forward by the Irish Presidency are presentational, and intended to respond to political demands in the wake of the Madrid bombings, the shock of Madrid and a strong new mandate from heads of government at the March 25-26 Council session may help the EU move ahead where progress heretofore has been stymied. This cable discusses the timeline and likely outcome of these debates. End Summary.

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Timeline: From Now to the Summit  
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3. (U) PM Ahern's proposals will be discussed first by the EU PermReps (COREPER II) on March 18, then by Justice and Interior Ministers at a special session of the Justice and Home Affairs (JHA) Council on March 19, then by FMs at the General Affairs and External Relations Council (GAERC) on March 22, and finally by Presidents and PMs at the European Council March 25-26. Not all of the proposals will make it through the gauntlet of EU preparatory bodies in time for the European Council, but some will; those that don't will be sent back to the preparatory bodies for further elaboration and negotiation. The three high-profile measures -- the creation of an EU CT Coordinator, the adoption of a revised EU Action Plan, and the adoption of an EU Solidarity Clause -- will almost certainly be adopted in some form.

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Counter-Terrorism Coordinator  
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4. (C) PM Ahern said that the EU "will consider the appointment of a security coordinator to enhance cooperation between EU bodies and third countries and streamline activities in the fight against terrorism." Commission security policy expert Patricia Holland told us the Coordinator would work in the Council Secretariat under HiRep Solana in an arrangement similar to that of WMD Rep Annalisa Giannella. Unlike Giannella, however, the CT Coordinator will, if mandated as expected by the European Council, be vested with the explicit endorsement of EU leaders (Giannella was appointed by Solana unilaterally, as a "Personal Representative" for WMD). The move to create a Coordinator has been pushing slowly forward since January (ref), but has taken on new urgency in the wake of last week's Madrid bombings.

15. (C) The Coordinator post is envisaged as tasking one person with facilitating cooperation among EU institutions -- which jealously guard their stovepiped competencies, often leading to inconsistent policy and ineffective activities -- and with interfacing with third countries on behalf of the EU's CT machinery. To a limited degree, and when asked, the Coordinator would assist EU Member States with their CT obligations under the revised EU Action Plan. The Coordinator would have no direct authority over member state ministries, but would instead serve both as a clearinghouse for member state CT activities and as a facilitator for those seeking greater coordination and assistance. Many in Brussels also hope that the Coordinator will acquire the moral authority to "name and shame" when Member States fail to live up to their Action Plan commitments.

16. (C) In a meeting with visiting EUR/DAS Bradtke on March 16, Council External Affairs DG Robert Cooper said he hoped the Coordinator would not only coordinate ongoing efforts, but help to drive them forward. To do that, the office would need to have a certain amount of Member State acquiescence, which will be difficult to obtain even after Madrid. According to a British-national Commission contact who was part of an EU delegation sent to London to pulse its views of enhanced CT coordination, UK Home Secretary Blunkett has staked out an over-my-dead-body position on the idea of a Coordinator whose influence might extend beyond the halls of Brussels. If that's the case, he asked, "How can we expect smaller countries to cooperate if the British won't?"

17. (C) According to our interlocutors, the name most often mentioned as the first EU CT Coordinator is retiring Council Secretariat DG for Justice and Home Affairs Charles Elsen, a

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choice which would reflect the EU preference for a low-key senior bureaucrat to fill the post rather than a political figure. But it is unclear how Elsen's front-runner status will be affected by the March 14 Socialist electoral victory in Spain. After the Madrid bombings, Solana will not be able to name a Coordinator who does not have the fullest support of Spain.

18. (C) While the Coordinator will probably be tasked with enhancing inter-institutional coordination, it is unlikely that the Commission will be any more inclined to cooperate than some of the Member States. This is because CT policy in the Commission is divided among several (often competitive and mutually jealous) Directorates-General. They have been reluctant to coordinate more with each other let alone with outsiders such as the envisaged EU Coordinator. Recognizing this shortcoming, the Commission is separately debating how to improve its own internal "cross-pillar" coordination, with ideas ranging from the creation of a single executive-level Commission Coordinator, perhaps as a junior counterpart to the Council's Coordinator, to a coordination group that would bring together experts from the relevant Directorates-General on a standing or as-needed basis. We believe the latter option is more likely, as that would allow each DG to have its own seat at the collective coordinating "table." Commission Chiefs of Cabinet discussed the issue March 15 and the College of Commissioners discussed it March 16. We do not yet have a readout of those discussions.

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Adoption of a revised Action Plan on Terrorism  
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19. (C) The Irish Presidency was tasked with revising the 2001 CT Action Plan in time for the June European Council. PM Ahern surprised everyone by announcing on March 12 that he would seek its completion in time for adoption at the March 25-26 gathering. EU interlocutors involved in the revision process tell us that the new Action Plan will still not provide the kind of actionable detail that many would like. Instead, in the words of one Commission contact, it will mostly be "motherhood and apple pie." Among other things, it will call on Member States to do more in regard to terrorism finance, cooperation with third countries and organizations (U.S., CTC, ASEAN, etc.), law enforcement and intelligence cooperation, securing borders and international transport, addressing root causes of terrorism, and targeting assistance to countries in greatest need.

110. (SBU) As a follow-on initiative, PM Ahern will seek support for the creation of a more detailed implementation plan to guide EU and Member State implementation of the Action Plan. The March 25-26 Council will be just the beginning of that process. Weeks or months will likely be required for the kind of detailed (yet consensual) articulation of steps and benchmarks desired by the Irish Presidency (and by the UK, the most notable and credible supporter of a strong implementation plan).

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## Solidarity Clause

11. (C) The draft EU Solidarity Clause was agreed late last year during the EU Constitution negotiations in the Inter-Governmental Conference (IGC). But failure to agree on other constitutional items prevented the clause from being adopted at that time. The clause (Article I-42 of the draft Constitution) states that the EU shall act "in a spirit of solidarity if a Member State is the victim of a terrorist attack or natural or man-made disaster." The idea is for the EU to be involved, as the EU, in terrorist and disaster response efforts, whether these responses include public health, law enforcement, or military resources.

12. (C) The clause does not describe the kinds of actions the EU might take to "assist" Spain (assuming Spain asked for assistance). Unlike many other aspects of the draft Constitution, the Solidarity Clause would not require a new treaty to adopt. Nothing in the existing EU treaties forbids such steps, and a "legal basis" could be found under the current CFSP and JHA provisions. Political agreement by EU member states is all that is required to put the clause in force. Council, Commission and Member State interlocutors tell us that in the wake of Madrid, the clause should be adopted with little debate. While a few EU member states (most notably Sweden) reportedly retabled some of their original objections to the clause, we don't expect any -- after Madrid -- to stand in the way of consensus. At the very least, says Solana Senior Advisor Niall Burgess, Member States will step over themselves to declare their full support for the spirit of the clause, if not the text.

## Enhanced Intelligence Cooperation

13. (U) PM Ahern said the EU "will strive to improve mechanisms for cooperation between police and security services and promote effective, systematic collaboration in intelligence services between Member States." Two options are on the table:

- Creating a new "European Information Bureau to bring together information analysis inside and outside the EU"
- Strengthening Member State support for Europol.

14. (C) The first option was proposed by Austria at the last JHA Council on February 19 but was not well received. Belgian PM Verhofstadt renewed the proposal over the weekend in light of Madrid. The second option would seem easiest -- to give Europol the means required to make it effective. However, Member States have been reluctant to give Europol information, despite the fact that the fight against terrorism has been one of its central objectives since its creation in July 1999. Our money is on Europol. If Madrid doesn't empower this organization, nothing ever will.

## The "Guidelines" for Fighting Terrorism

15. (C) PM Ahern is calling for "speedy and final agreement on the draft Guidelines for a Common Approach to the Fight against Terrorism." The Guidelines document -- intended as a sort of strategic umbrella for EU CT policy -- has been blocked in draft for the past six months. According to Ken O'Flaherty of the UK Mission, the Guidelines have become mired in theological debates over the definition and taxonomy of terrorism. It is doubtful that these debates can become unblocked in time for the document's adoption on March 26. But it may not really matter. The declaratory statement released by EU leaders at the European Council will likely be of sufficient depth and breadth -- in the context of a large consensual union -- that it could serve as the strategic umbrella that the EU has thus far lacked. Solana Advisor Burgess predicts exactly that, and suggests that without agreement on the Guidelines, the EU could simply build upon whatever declaration emerges on March 26 in order to articulate strategic guidance for CT policy.

## Increased EU-UN Coordination on Terrorism

16. (SBU) PM Ahern wants to refocus EU efforts to achieve support for the draft comprehensive Convention on Terrorism currently under discussion at the UN. This was originally endorsed by the EU in September 2001, when leaders adopted the CT Action Plan. Yet to date -- after almost three years of declared EU support for a single comprehensive UN CT Convention -- only six of the twelve existing international CT conventions have been signed and ratified by all EU member states. Therefore, any move to renew attention to this issue has as much to do with pressuring the EU's own Member States to speed up the process as it does with signaling support to outsiders.

17. (C) Under the Italian Presidency, the EU began a concerted effort to strengthen ties between the CTC and the EU's third-pillar (i.e. external affairs) Counter-Terrorism Working Group (COTER). Between October and December 2003, COTER members met with the Chairmen of the CTC, UNODC, Sanction's Committee, and other UN groups to discuss enhancing EU-UN CT cooperation. The EU wants to strengthen these new ties and push the relationships even closer. In particular, the EU wants to support the "revitalization" of the CTC in order to give it a more active role in global CT efforts, according to Irish COTER Chair Patricia O'Grady. In addition, the EU wants to coordinate more with the CTC, UNODC and CTAG in designing and implementing EU assistance programs to third countries. These two efforts represent what we understand to be the focus of the "new initiatives" in EU-UN coordination mentioned by PM Ahern.

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Financing of Terrorism  
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18. (C) PM Ahern is calling on the EU "to enhance the efficiency and effectiveness of the EU's mechanisms for the freezing of terrorist assets and to identify the movement of terrorist finances." He said also that the Irish will "give priority to taking forward work on the expected Communication on the prevention of terrorist financing..." According to Irish RELEX Counselor Kyle O'Sullivan, the proposal for a "Communication" will come out of the Commission's JHA Directorate-General. It has been in the works for some time and was expected to be issued later this spring. Its release is being accelerated as a result of the Madrid bombings. O'Sullivan has not seen a draft, but understands that it focuses on the creation of a network for the exchange of information among member states, while preserving the system of contact points between Financial Intelligence Units and Central Banks.

19. (C) Beyond that, the statement refers generally to ongoing efforts, conducted under the leadership of the Irish Presidency, to improve Clearinghouse working methods. The proposal being prepared for COREPER March 18 is made up of a "modest" list of areas where Clearinghouse practices could be improved, including:

- focusing on individuals associated with designated groups;
- member states providing more substantial background information when they present proposals for designations;
- the Clearinghouse renewing its focus on long-standing but essentially "dormant" proposals, with an eye toward resolving them one way or another;-- setting agendas for Clearinghouse meetings that would direct the focus toward specific groups rather than invite comment on all outstanding proposals at any given meeting;
- participation (albeit non-voting) by other services such as Europol in the meetings;
- taking a more active approach to renewing the list, as required every six months (e.g., taking a more rigorous look at the designated individuals to ensure that they have not died in the period since their designation).

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Measures to Reinforce Practical Cooperation  
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20. (C) PM Ahern's reference to reinforcing "practical cooperation with... the Police Chiefs Task Force, Europol and Eurojust" is a recognition of the underutilized character of these organizations. Of the three, Europol, which is still trying to find its way and earn the respect of Member States, is garnering the most attention and probably holds the greatest promise. Although terrorism has been in its mandate since it was created in 1999, its work in this area to date has been limited to writing threat assessments. It has no operational capacity. In December, France unveiled an initiative designed to make Europol operationally capable of carrying out investigations. The French proposal also calls for it to have the technical information required to provide more aid to Member States in specific investigations, and to have greater powers. The French Interior minister claimed to have the support of the Commission, Austria, Spain and Germany. The Irish proposal is to reinforce this initiative with a focus on counter-terrorism.

21. (C) The Police Chiefs Task Force is a police-to-police network that bypasses central government ministries (in hopes of making it faster and more efficient than other coordinating bodies). It is unclear how the EU could interface more effectively with this organization, or indeed whether it should. Eurojust is a new organization still finding its feet. The Irish Presidency wants to give it a boost, and is perhaps using the raft of CT proposals for the March 25-26 European Council as a way of doing so. Yet it is hard for us to see how it could help in counter-terrorism.

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Implementing Existing Measures  
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122. (C) The Irish proposal to "take forward work on the Framework Decision on the Mutual recognition of Confiscation Orders" refers to a draft decision that was almost agreed at the February 19 JHA Council. Under the proposal each Member State will have to recognize and execute on its territory confiscation orders issued by judicial authorities of another Member State. The Framework Decision is based on the principle of "mutual recognition of judgments" throughout the EU and forms part of a series of such decisions: After the Council Meeting Feb. 19th Irish Justice Minister Mc Dowell said he was aiming for political agreement on the draft at the next JHA Council on March 30th. He noted that this Framework decision was closely linked to the already adopted Framework Decision on the Mutual recognition of orders freezing property or evidence. It was also linked to the draft Framework Decision on confiscation of crime-related proceeds, instrumentalities and property on which the JHA Council adopted a general approach in December 2002. In light of Madrid, the confiscations agreement will probably be endorsed at the Special JHA Council on March 19.

123. (U) PM Ahern also called for "the development of the second generation Schengen Information System and the new Visa Information System and the proposed European Borders Agency." The SIS is a lookout database that keeps on file names of individuals who are barred from entering the Schengen area, as well as well as other individuals and stolen objects wanted by the authorities. The proposed upgrades will include a biometric function to assist in the identification of listed individuals and will also support automatic transliteration capabilities for names from non-Latin alphabets (such as Chinese, Russian, Arabic, etc.). Other upgrades include more data displayed on user terminals and the capability to query results and link searches between people and objects. In this regard, the current SIS will evolve from a hit/no-hit name-checking system to one that could be of increased value to law enforcement entities. The EC has also proposed that EUROPOL and EUROJUST should also be connected to SIS-II.

124. (U) Similarly, the proposed Visa Information System (VIS) will contain a biometric function and will tie all EU consular posts abroad with ports of entry. Neither the upgraded SIS nor VIS is expected to become operational before 2007. The Border Agency will help Member States coordinate policy, training and equipment acquisitions and could be established as early as 2005.

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External aspects  
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125. (C) The EU wants to make CT a more central and actionable item in its relations with third countries, according to COTER Chair O'Grady. In terms of technical assistance, the EU will seek to better coordinate Member State and Commission programs to ensure maximum impact and to avoid duplication. The COTER working group is creating a matrix of existing programs in order to assist this effort (much as WMD Rep Giannella has done in relation to Member State and Commission nonproliferation assistance programs). Under COTER lead, the EU is also looking for ways to design and implement these programs by drawing on the expertise of international (e.g. CTC, CTAG) and regional (e.g. ASEAN, GCC) organizations.

126. (C) The EU also says it wants to "operationalize" its political- and expert-level dialogues with third countries on CT issues. Taking a page from the revised work program of the U.S.-EU COTER troika consultations agreed under the Italian Presidency in 2003, the EU is likely to seek specific, achievable objectives in its dialogues with countries such as Russia, China, India and Canada. In a confidential report on EU CT activities presented to FMs at

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the GAERC in December (please protect), the Presidency and Council Secretariat recommended that the EU "focus COTER Troika meetings with third countries, whenever possible, on a more operational perspective... One objective of this exercise should be to devise, where appropriate common lines of action toward certain countries and/or regional organizations. A specific priority should be given to the implementation of the revised mechanism for dialogue with the United States."

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Comment  
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127. (C) Many of the proposals put forward by the Irish Presidency are presentational, and intended to respond to political demands in the wake of the Madrid bombings rather

than move the EU forward in significant ways in their counter-terrorism activities. Still, the creation of a "Counterterror Czar" and a new political impetus from the Council session could help improve EU implementation of decisions taken in the wake of the September 11 attacks in the US. Since then, some of the initial EU elan became bogged down in legal debates and differing legal practices in member states. The shock of Madrid and a strong new mandate from heads of government at the March 25-26 Council session may help the EU move ahead where progress heretofore has been stymied.

Foster